

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

APR 14 2004

PATRICK FISHER
Clerk

DOUGLAS A. SPITZNAS,

Petitioner-Appellant,

v.

BOBBY BOONE,

Respondent-Appellee.

No. 99-6158
(D.C. No. CIV-98-133-L)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **EBEL**, Circuit Judge, **BRORBY**, Senior Circuit Judge and **LUCERO**,
Circuit Judge.

The Court has carefully considered the record in this case, all the pleadings
filed in our court, and the recommendation and report of the magistrate and the
findings and conclusions by the district court following our most recent remand.

*After examining appellant's brief and the appellate record, this panel has
determined unanimously that oral argument would not materially assist the
determination of this appeal. See Fed. R. App. P. 34(a)(2) and 10th Cir. R.
34.1(G). The case is therefore ordered submitted without oral argument. This
Order and Judgment is not binding precedent, except under the doctrines of law of
the case, res judicata, and collateral estoppel. The court generally disfavors the
citation of orders and judgments; nevertheless, an order and judgment may be
cited under the terms and conditions of 10th Cir. R. 36.3.

Having been fully advised in the premises, we AFFIRM the denial of habeas relief for petitioner on substantially the grounds stated below.

ENTERED FOR THE COURT

David M. Ebel
Circuit Judge